

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LARRY D RIDGE, JR,

No C-09-5861 VRW (PR)

Petitioner,

v

ORDER OF DISMISSAL; DENYING
CERTIFICATE OF APPEALABILITY

JAMES WALKER, WARDEN,

Respondent.

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Petitioner, a state prisoner incarcerated at New Folsom State Prison in Represa, California, has filed a second petition for a writ of habeas corpus under 28 USC § 2254 challenging an April 26, 2005 conviction and sentence from Alameda County superior court. His first petition was filed on June 30, 2009 and an order to show cause recently issued on December 21, 2009. See Ridge v Walker, No C 09-2931 VRW (PR) (ND Cal filed June 30, 2009), Doc #4 (order to show cause).

The court has compared the two separately-filed petitions and they appear to contain the same claims. Should this not be the case, petitioner is free to amend his first petition, Ridge v

1 Walker, No C 09-2931 VRW (PR) (ND Cal filed June 30, 2009), to
2 include any claims raised in his second petition that were omitted
3 from the first.

4 For the foregoing reasons, the instant petition is
5 DISMISSED as duplicative. All claims relating to petitioner's April
6 26, 2005 state court conviction and sentence must be brought and
7 litigated in civil case No C 09-2931 VRW (PR) (ND Cal filed June 30,
8 2009).

9 Further, a certificate of appealability is DENIED. See
10 Rule 11(a) of the Rules Governing Section 2254 Cases (effective Dec
11 1, 2009). Petitioner may not appeal the denial of a certificate of
12 appealability in this court but may seek a certificate from the
13 court of appeals under Rule 22 of the Federal Rules of Appellate
14 Procedure. Id.

15 The clerk shall terminate all pending motions as moot,
16 enter judgment in accordance with this order and close the file.

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19 IT IS SO ORDERED.

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22 VAUGHN R WALKER
23 United States District Chief Judge
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